

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
LITTLE ROCK DIVISION**

**STEPHEN MARSH**

**PLAINTIFF**

**V.**

**5:07CV00120JMM**

**CORNELL ALEXANDER YOUTH SERVICES;  
CORNELL ABRAXAS, Cornell Companies;  
ERIC L. CONTI, Human Resources, Youth Services Division;  
MARIANNE G. BONETATI, Esq., Cornell Companies;  
BOB MCCRACKEN, Facility Director;  
TYRENE GREEN, Program Director;  
KENNETH WRIGHT, Treatment Supervisor; and  
LEONIN AMERINE, Assistant Treatment Supervisor**

**DEFENDANTS**

**ORDER**

Plaintiff has filed suit against the Defendants alleging employment discrimination in violation of 42 U.S.C. § 2000e. Specifically, Plaintiff alleges that the Defendants reduced his work hours and harassed him based upon his age and religion. The Defendants have each responded by filing separate motions to dismiss. Defendants Eric Conti, Marianne Bonetati, Bob McCracken, Tyrene Green, Kenneth Wright, and Leonin Amerine contend that they are not “employers” as that term is defined by Title VII. Title VII prohibits discrimination in employment by “employers,” not co-workers or supervisors. *Smith v. St. Bernards Regional Medical Center*, 19 F.3d 1254, 1255 (8<sup>th</sup> Cir. 1994)(“liability under 42 U.S.C. § 2000e(b) can attach only to employers.”); *Bonomolo-Hagen v. Clay Central-Everly Community School Dist.*, 121 F.3d 446, 447 (8<sup>th</sup> Cir. 1997)(“supervisors may not be held individually liable under Title VII.”). Plaintiff, acting pro se, has not responded to the motions. However, Plaintiff’s Complaint does not set forth facts alleging that these individuals are his employers. Accordingly, the Court finds that Defendants Conti, Bonetati, McCracken, Green, Wright, and Amerine should be DISMISSED from this action because they are not employers under Title VII. Plaintiff has

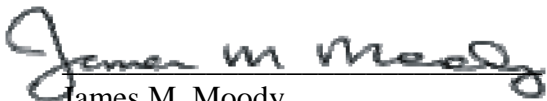
failed to state a claim against these Defendants. Fed. R. Civ. P 12(b)(6).

Defendants Cornell Alexander Youth Services and Cornell Abraxas have also filed motions to dismiss. Plaintiff has not responded. Cornell Alexander Youth Services states in its motion that it is not a legal entity capable of being sued. Moreover, Cornell Alexander Youth Services is also not Plaintiff's employer. Therefore, the Court finds that Cornell Alexander Youth Services should be DISMISSED from this action. Plaintiff has failed to state a claim against this Defendant. Fed. R. Civ. P 12(b)(6).

Finally, Defendant Cornell Abraxas claims that it is not Plaintiff's employer and should be dismissed from the suit. However, this Defendant has provided the name of Plaintiff's actual employer which is Cornell Companies, Inc. Therefore, the Court finds that Defendant Cornell Abraxas should be changed to Cornell Companies, Inc.

In conclusion, the motions to dismiss of Defendants Alexander Youth Services (Docket # 18), Eric Conti (Docket # 22), Marianne Bonetati (Docket # 24), Bob McCracken (Docket # 26), Tyrene Green (Docket # 28), Kenneth Wright (Docket # 30), and Leonin Amerine (Docket # 37) are GRANTED. The Motion to Dismiss of Defendant Cornell Abraxas (Docket # 20) is DENIED. The Clerk is directed to change the name of Defendant Cornell Abraxas to the proper party name of Cornell Companies, Inc.

IT IS SO ORDERED this 25<sup>th</sup> day of July 2007.

  
James M. Moody  
United States District Judge